

GOVERNMENT

SIKKIM



GAZETTE

EXTRAORDINARY  
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GOVERNMENT OF SIKKIM  
LAW DEPARTMENT  
GANGTOK

NOTIFICATION

No. 7/LD/1988.

Dated the 31st August, 1988;

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 29th day of August, 1988, is hereby published for general information:—

THE SIKKIM FORESTS, WATER COURSES AND  
ROAD RESERVE (PRESERVATION AND  
PROTECTION) ACT, 1988.

(ACT NO. 6 OF 1988)

AN  
ACT

to consolidate the law relating to forests, forest produce, water courses and road reserve and for matters connected therewith or incidental thereto.

BE it enacted by the Legislature of Sikkim in the Thirty-ninth Year of the Republic of India as follows :—

CHAPTER-I

PRELIMINARY

1. (1) This Act may be called the Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Act, 1988. *Short title, extent and commencement.*  
(2) It extends to the whole of Sikkim.  
(3) It shall come into force at once.
2. In this Act, unless the context otherwise requires,- *Definitions.*  
(a) "cattle" includes asses, buffaloes, cows, colts, ewes, fillies, geldings, goats, horses, kids, lambs, mules, ponies, pigs, rams, sheep, yak and zoe, elephant and such other kinds of animals as the Government, by notification, specify;

- (b) "forest" means an extensive tract of land covered with trees and undergrowth, sometime intermingled with pastures, alpine scrubs;
- (c) "forest land" means the land shown as forest land in the records of right including areas under perpetual snow, alpine, scrubs or alpine pasture or the land as declared as forest land by the Government, by notification;
- (d) "forest officers" includes the Principal Chief Conservator of Forests, Chief Conservator of Forests, Additional Chief Conservator of Forests, Conservator of Forests, Deputy Conservator of Forests, Assistant Conservator of Forests, Range Officers, Deputy Range Officers, Foresters, Head Forest Guard, Forest Guard or any other officers appointed by the Government to perform any function of a forest officer under this Act;
- (e) "forest offence" means an offence punishable under this Act or under any rule made thereunder;
- (f) "forest produce" includes -
  - (i)(a) the following whether found in, or brought from, a forest or not, that is to say:-  
bark, charcoal, firewood, myrabolance, natural varnish, resin, shellac, timber, wood, and
  - (b) the following when found in, or brought from, a forest, that is to say :-  
trees and leaves, flowers and fruits and all other parts or produce of trees not hereinbefore mentioned;
  - (ii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals,
  - (iii) plants not being trees including agave, creeper, dioscores, daphne, edgeworthia, ferns, grass, lycopodium, lichens, mushroom, moss and reeds, bamboos, nettle, polygonum, thysanotacna, and all categories of medicinal herbs and shrubs, any agricultural crops, bulbs, rhizomes, tubers, and all parts or produce of such plants,
  - (iv) peat, dolomite, graphite, rock, surface soil, sand stones, slates, and other minerals including laterite, mineral oils and all other products of mines and quarries, and
  - (v) such other produce as the Government may, by notification, declare to be forest produce.
- (g) "Government" means the State Government of Sikkim;
- (h) "gorucharan forest" means any forest land settled and set aside by the State Government for the purpose of grazing of cattle of the adjoining villages;
- (i) "khasmal forest" means any forest land settled and set aside by the Government for meeting the bonafide domestic need of timber, firewood and fodder of the resident of the adjoining villages;
- (j) "land" includes channel, creeks and other water channel, reservoir, rivers, lakes and streams, whether artificial or natural and also includes boulders and rocks;
- (k) "notification" means a notification published in the Official Gazette;



- (l) "reserved forest" means any forest land settled and notified by the Government as reserved forest;
- (m) "river" includes any stream, channel, jhora, creak or other channel, natural or artificial;
- (n) "timber" includes trees when they have fallen or have been felled and all wood cut up or sawn or fashioned or hallowed out for any purpose whatsoever;
- (o) "trees" includes bamboos, brushwood, cane, banana, kernels, stumps, trees and palms;
- (p) "waste land" means an uncultivated land which is not the property of any individual person;
- (q) "weapon" includes ammunition, bows, arrows, explosive, firearms, hooks, bills, khukuris, axe, saw, knives, nets, poison, snares, traps and any instrument or apparatus capable of destroying, damaging and injuring forest produce.

## CHAPTER - II

### RESERVED FORESTS

*Power to reserve forests.*

3. The Government may declare any land as a reserved forest in the manner hereinafter provided.

*Notification by Government.*

4. Whenever it is proposed to declare any land as a reserved forest, the Government shall issue a notification specifying therein—

- (a) that it has been decided to declare such land as a reserved forest;
- (b) as nearly as possible, the situation and limits of such land; and
- (c) the appointment of an officer (hereinafter referred to as the Forest Settlement Officer) to enquire into the matter and determine the existence, nature and extent of any rights relating to collection of dry sticks and grazing alleged to exist in favour of any person in or over any land comprised within such limits, or in or over any forest produce, and to deal with the same as provided in this Chapter.

*Bar of accrual of forest rights.*

5. After the issue of a notification under section 4, no right shall be acquired in or over the land comprised in such notification except by succession or under a grant or contract in writing made or entered into or by or on behalf of the Government or some person in whom such right was vested when the notification was issued.

*Proclamation by Forest Settlement Officer.*

6. When a notification has been issued under section 4, the Forest Settlement Officer shall publish in the language commonly spoken in every town and villages in the neighbourhood of the land comprised therein, a proclamation—

- (a) specifying, as nearly as possible, the situation and limits of the proposed forest;
- (b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and
- (c) fixing a period of not less than one month from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5, within such period either to present to the Forest Settlement Officer a written statement specifying or to appear before him and state the nature of such right and the amount and particulars of the compensation, if any, claimed in respect thereof.

*Inquiry by  
Forest Settlement  
Officer.*

7. The Forest Settlement Officer shall record all statements made under section 6 and shall at some convenient place inquire into all claims preferred under that section, and the existence of any rights mentioned in section 4 or section 5 and not claimed under section 6 so far as the same may be ascertainable from the records of the Government and evidence of any persons likely to be acquainted with the same.

*Powers of  
Forest Settlement  
Officer.*

8. For the purpose of such inquiry, the Forest Settlement Officer may exercise the following powers, namely :—

- (a) the power to enter, by himself or any officer authorised by him for the purpose, upon land and to survey, demarcate and make a map of the same; and
- (b) the powers of a Civil Court in the trial of suits.

*Extinction of  
rights.*

9. Rights in respect of which no claim has been preferred under section 6 and of the existence of which no knowledge has been acquired by enquiry under section 7, be extinguished, unless, before the notification under section 17 is published, the person claiming those rights satisfies the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under section 6.

*Treatment of  
claims relating  
to shifting  
cultivation.*

10. (1) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement Officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regularised, and submit the statement to the Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.
- (2) On receipt of the statement and opinion, the Government may make an order permitting or prohibiting the practice wholly or in part.
- (3) If such practice is permitted wholly or in part, the Forest Settlement Officer may arrange for its exercise—
- (a) by altering the limits of the land under settlement so as to exclude land of sufficient extent of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or
  - (b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practice shifting cultivation therein under such conditions as he may prescribe.
- (4) All arrangements made under sub-section (3) shall be subject to the previous sanction of the Government.
- (5) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the Government.

*Power to acquire land over  
which right is  
claimed.*

11. (1) In the case of a claim to a right in or over any land other than a right of way or right of pasture or a right to forest produce or a water-course, Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.
- (2) If such claim is admitted in whole or in part, the Forest Settlement Officer shall either—
- (i) exclude such land from the limits of the proposed forest;
  - (ii) come to an agreement with the owner thereof for the surrender of his right and proceed to acquire such land in the manner provided in the Sikkim Land (Requisition and Acquisition) Act, 1977.



## (3) For the purpose of acquiring such land -

- (a) the Forest Settlement Officer shall be deemed to be a Collector under the Sikkim Land (Requisition and Acquisition) Act, 1977;
- (b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 5 of the Sikkim Land (Requisition and Acquisition) Act, 1977;
- (c) the provisions of the preceding sections of the Sikkim Land (Requisition and Acquisition) Act, 1977 shall be deemed to have been complied with;
- (d) the Forest Settlement Officer, with the consent of the claimant or with the consent of both parties, may award an amount for such acquisition.

*Act 1 of 1978**Act 1 of 1978**Order on claim to right of pasture or to forest produce.*

12. In case of a claim to right of pasture or to forest produce, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

*Record to be made by Forest Settlement Officer.*

13. (1) The Forest Settlement Officer, when passing any order under section 12, shall record, so far as may be practicable-

- (a) the name, father's name, caste, residence and occupation of the person claiming the right; and
- (b) the classification, position and area of all field or groups of fields, if any, and the classification and position of all buildings, if any, in respect of which the exercise of such right is claimed.

(2) If the Forest Settlement Officer admits in whole or in part any claim under section 12, he shall also record the extent to which the claim is so admitted, specifying the number and the description of the cattle which the claimant is, from time to time, entitled to graze in the forest, the season during which such pasture is permitted.

*Appeal from order passed under section 11 and section 12.*

14. Any person who has made a claim under this Act or any forest officer or other person generally or specially empowered by the Government in this behalf may, within one month from the date of the order passed under sections 11 and 12 prefer an appeal from such order to such Appellate Authority as the Government may, by notification, appoint.

*Appeal under section 14.*

15. (1) Every appeal under section 14 shall be made by petition in writing giving the grounds for appeal and may be delivered to the Forest Settlement Officer who shall forward it without delay to the Appellate Authority.

(2) No appeal shall be disposed of unless the parties thereto have been given the opportunity of being heard.

(3) The Appellate Authority appointed under section 14 may confirm, set aside or modify the order of the Forest Settlement Officer, as the case may be, and the order of the Appellate Authority shall be final.

*Appointing of pleaders.*

16. The Government or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement Officer, or the Appellate Authority, in any proceedings under this Act.

*Notification declaring forest reserved.*

17. (1) When the following events have occurred, namely :-

- (a) the period fixed under section 6 for preferring claim has elapsed, and all claims, if any, made under that section or section 9 have been disposed of by the Forest Settlement Officer;

- (b) if any such claims has been made, the period specified in section 14 for appeal from the order passed on such claims has elapsed, and all appeals, if any, presented within such period have been disposed of by the Appellate Authority, and
- (c) all lands, if any, to be included in the proposed forest, which the Forest Settlement Officer has, under section 11 acquired under the Sikkim Land (Requisition and Acquisition) Act, 1977 have become vested in the Government.

*Act 1 of 1978.*

The Government shall publish a notification specifying therein the definite boundary marks erected or otherwise the limits of the forest which is to be reserved and declaring the same to be reserved forest from a date fixed in the said notification.

- (2) The notification issued under sub-section (1) shall be published in the villages and town in the neighbourhood of the reserved forest in the language commonly understood in the area.

18. The Forest Officer may, with the previous sanction of the Government or any officer duly authorised by it in this behalf, stop any public or private way or water course in a reserved forest, provided that a substitute for the way of water course so stopped, which the Government deems to be reasonably convenient, already exists, or has been provided or constructed by the Forest Officer in lieu thereof.

*Power to stop ways and water courses in reserved forests.*

19. (1) Any forest which has been declared or set aside as reserved forest on or before the commencement of this Act under any law or rule or notification in force in the State of Sikkim, shall be deemed to be reserved forest.

*Reserved forests declared as such before the commencement of this Act.*

- (2) All question decided, orders made and records prepared in connection with the declaration of such forest as reserved forest shall be deemed to have been decided, made and prepared under the corresponding provisions of this Act.

20. Any person who,—

- (a) makes any fresh clearing prohibited by section 5;
- (b) converts a reserved forest or part thereof to any use other than forestry;
- (c) uses reserved forest for growing commercial crops;
- (d) leases forest areas to private parties for raising captive plantations or food crops;
- (e) sets fire to a reserved forests;
- (f) in contravention of any rules made under this Act, kindles any fire or leaves any fire burning in such manner as to endanger such forest;
- (g) in contravention of the rules made under this Act—
  - (i) kindles, keeps or carries any fire during such season other than the season specified by the forest officer;
  - (ii) trespasses or pastures cattle or permits cattle to trespass;
- (h) causes, by negligence, any damage, by felling any trees or cutting or dragging any timber;
- (i) fells, cuts, girdles, lops, taps or burns any tree or strips off the bark or leaves of any tree or otherwise damage the same;

*Acts prohibited in reserved forest and penalties thereof.*



- (j) quarries stone, burns lime or charcoal or collects or removes any forest produce;
- (k) damages, alters or removes any cairn, wall, ditch, embankment, fence, hedge or railing shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both and in addition to be liable to pay such compensation for the damage done to the forest as the convicting court may direct.

21. Whenever fire is caused wilfully or by gross negligence in a reserved forest by a person having rights in such forest or by person in his employment, the Government may, without prejudice to any other punishment that may be imposed under this Act, direct that in such forest or any specified portion thereof the exercise of all or any of the rights of pasture, grazing or collection of forest produce by any such person shall be suspended for such period as it thinks fit or be extinguished.

*Penalties for offences committed by person having rights in reserved forests.*

### CHAPTER III KHASHMAL AND GORUCHARAN

22. (1) The Government may, by notification, declare that the provisions of this Chapter shall apply to khasmal or gorucharan forest.
- (2) Any forest which has been declared as khasmal forest and gorucharan forest before the commencement of this Act which has been specified in the records of rights of 1952 cadestral survey, shall be deemed to be khasmal forest and gorucharan forest.
- (3) Any waste land or banjo land which is not the property of any person shall be deemed to be a khasmal forest for the purpose of this Act.

*Power of Government to declare Khasmal and gorucharan forests.*

23. No such notification referred to in sub-section (1) of section 22 shall be issued unless the nature and extent of the rights of the Government and of private persons in or over the khasmal and gorucharan forests is inquired into and recorded in a survey and settlement record, or in such other manner as the Government thinks sufficient. Every such record shall be presumed to be correct until proved otherwise :

*Limitation on exercise of powers under section 22.*

Provided that in the case of any khasmal or gorucharan forests, if the Government thinks that such inquiry and record are necessary but that the completion thereof will occupy such length of time as may endanger the rights of Government, the Government may, pending such inquiry and record, declare such land to be khasmal or gorucharan forest, as the case may be, but so, however, the existing rights of individuals or communities are affected as little as possible.

24. (1) Any person who —

- (a) makes any fresh clearing or converts khasmal forests or gorucharan forest or part thereof to any use other than forestry;
- (b) sets fire to a khasmal forest or gorucharan forest or part thereof;
- (c) in contravention of any rules made under this Act kindles any fire or leaves any fire burning in such manner as to endanger such a forest;
- (d) kindles, keeps or carries any fire except during season other than the season notified by the forest officer;
- (e) causes, by negligence, any damage, by felling any tree or cutting or dragging any timber;
- (f) cuts, pollards, girdles, lops, taps or burns any tree or strips off the bark or otherwise damages the same;

*Acts prohibited in khasmal and gorucharan forest and penalty therefor.*

- (g) quarries stone, burns lime or charcoal or collects any forest produce;
  - (h) damages, alters, removes any cairn, wall, ditch, embankment, fence, hedge or railing, boundary marks,
- shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both and in addition to be liable to any such compensation for the damage done to the forest as the convicting court may direct.

(2) Notwithstanding anything contained in sub-section (1), the following acts shall not render the person liable to punishment under that sub-section for—

- (a) any act done with the permission, in writing, of the forest officer not below the rank of a Range Officer;
- (b) grazing of cattle and collection of such quantity of fodder from khasmal forest for bonafide use of the resident of the adjoining locality;
- (c) grazing of cattle, collection of such quantity of dry fallen sticks and grass or fodder in a gorucharan forest.

*Power of Government to order closure of forest.*

25. The Government may, by notification,—

- (a) declare that any portion of khasmal or gorucharan forest shall be closed for such period not exceeding thirty years and that the rights of any private persons over such forest or portion thereof shall be suspended during that period; and
- (b) declare any tree or class of trees in khasmal or gorucharan forest to be reserved from the date fixed in that notification.

*suspension of rights in case of fire.*

26. Whenever fire is caused wilfully or by gross negligence in khasmal or gorucharan forest, the Government may, notwithstanding any other penalty which has been imposed under this Act, direct that in such forest or any portion thereof the exercise of all rights provided in sub-section (2) of section 24 shall be suspended for such period as may be specified.

*Power to make rules for khasmal and gorucharan forest.*

27. (1) The Government may, by notification, make rules to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the cutting, sawing, conversion and removal of trees and timber and the collection, manufacture and removal of forest produce;
- (b) the granting of permits to the inhabitants of neighbouring villages to take trees, timber or other forest produce for their bonafide use, and the production and return of such permits by such villagers;
- (c) the payment, if any, to be made for the permission to cut trees or to collect and remove such timber or other forest produce;
- (d) the examination of forest produce passing out of such forests;
- (e) the cutting of grass and grazing of cattle in such forests and payment thereof, if any;
- (f) the protection and management of any portion of forest closed under section 25; and
- (g) the exercise of rights referred to in section 25.

*Penalties for acts in contravention of section 27.*

28. Whoever contravenes the provisions of the rules made under section 27 shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with a fine which may extend to five thousand rupees, or with both



## CHAPTER - IV

## PROTECTION OF RIVER BANKS, SLIP RESERVE, ROAD RESERVE, ETC.

*River banks,  
slip reserve,  
road reserve,  
etc.*

29. For the purpose of this Chapter river banks in relation to rivers enumerated in the Schedule mean and includes an area of sixty metre on either side of such river or area within high flood level mark, whichever is less.

(2) Slip reserve means and includes,—

- (i) all lands which are denuded or are in the process of denudation declared as slip reserve before the commencement of this Act; and
- (ii) all denuded areas which are denuded or are in the process of denudation and required to be conserved or preserved for establishment that may be notified as slip reserve by the Government.

(3) No notification referred to in clause (ii) of sub-section (2) shall be made unless the nature and extent of the right of the Government and of the private persons in or over such land is enquired into and recorded in the record of right and such record shall be presumed to be correct until proved otherwise :

Provided that in the case of any slip area, if the Government thinks that such enquiry and record are necessary but that the completion thereof will occupy such length of time as may endanger the life of the community due to occurrence of slips, the Government may, pending such enquiry and record, declare such area to be a slip reserve, but so, however, that the existing rights of individuals or communities are affected as little as possible.

- (4) Road Reserve in relation to a National Highway means such portion of land lying within such distance from centre on either side of such Highway as may be prescribed.
- (5) Road Reserve in relation to a Highway other than a National Highway means such portion of the land lying within such distance from the centre on either side of such Highway as may be prescribed.
- (6) The road reserve referred to in sub-sections (4) and (5) shall be under the administrative control of Forest Department as if it were a forest constituted under this Act.
- (7) Any encroachment into the road reserve by any person shall be deemed to be an unauthorised occupation and such person shall be evicted in accordance with the provisions contained in the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980.
- (8) All old abandoned roads with their road reserve which has been abandoned as a result of construction of new roads shall be the property of the Government.

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*Penalty.*

30. (1) Any person who—

- (a) is in unauthorised occupation of any land in a slip reserve or a road reserve or a river bank;
- (b) removes any forest produce from a slip reserve or a road reserve or a river bank;

shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to six thousand rupees or with both.

(2) Notwithstanding anything contained in sub-section (1), the person in unauthorised occupation shall be evicted in the manner as indicated in sub-section (7) of section 29.

31. The Government may, regulate the use of natural waters, ice and glaciers by industrial establishments within the territory of Sikkim and levy such taxes and duties as may be deemed appropriate in the manner prescribed. *Use of water resources/ glaciers etc. by industrial establishment.*
32. The Government may, by notification, declare that any slip reserve or road reserve or river bank shall be closed for such period as may be specified in that notification and that the rights of any person over such slip reserve, road reserve or river banks shall remain suspended during that period. *Power of Government to close slip reserve, road reserve or river banks.*

## CHAPTER - V

### CONTROL AND MANAGEMENT OF PRIVATE FORESTS

33. For the purpose of this Chapter - *Control over forests or lands not being the property of Government.*
- (a) "forest" includes any land containing trees and shrubs, pasture land and any land not being a reserve forest, a gorucharan or khasmal forest, slip reserve and road reserve, which the Government may, by notification, under this section declare to be a forest;
- (b) "owner" in relation to a forest or land includes a mortgagee, leasees or other person having rights to possession and enjoyment of forest land.
34. (1) No owner of any forest and no person claiming under him whether by virtue of a contract, licence or any other transaction entered into before or after the commencement of this Act or any other person shall, without the previous permission of the forest officer authorised in this behalf, cuts or girdles trees or do any act to denude the forest or diminishes its utility as a forest : *Preservation of private forest and to reserve trees.*

Provided that nothing contained in this sub-section shall apply to-

- (a) the removal of fallen trees; and
- (b) the making of agricultural implements for bonafide use of the owner.
- (2) Notwithstanding anything contained in sub-section (1), the Government may, by notification, and for reasons to be specified in such notification, exempt any class of forest or class of trees of any forest produce found therein from all or any of the provisions of this section.
- (3) The Government may, by notification, declare any tree or species of trees to be reserved from the date fixed in such notification in such forest or land.

*Power to make rules.*

35. For the purpose of section 34, the Government may, make rules prescribing,—

- (a) class or kinds or species of trees which may be permitted to be cut and girdled and girth of such trees;
- (b) the conditions subject to which permission for removal of trees may be granted;
- (c) the procedure to be followed by the forest officer before granting permission;
- (d) the procedure regarding granting of permission to fell trees specified under section 34.

*Protection of forest or land for special purposes.*

36. (1) The Government may, by notification,—
- (a) regulate or prohibit in any forest—
- (i) the breaking up or clearing of any land;
- (ii) the pasturing of cattle;
- (iii) the firing or clearing of vegetation;



- (iv) the girdling, tapping or burning of any trees or stripping off bark or leaves of any trees;
  - (v) the lopping or pollarding of any trees;
  - (vi) cutting, sawing, conversion and removal of trees and timber;
  - (vii) the quarrying of stones or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing processes;
  - (b) regulate in any forest the regeneration of forest and their protection from fire;
  - (c) regulate the exercise of customary and prescriptive rights in such forests.
- (2) When protection of forest or land referred to in sub-section (1) of section 34 appears to be necessary, the Government may, by notification, provide—
- (a) for conservation of trees and forests;
  - (b) for the preservation, improvement of soil or the reclamation of saline or water logged land, the prevention of land slips or formation of varines or torrents or the protection of land against erosion or the deposit therein of sand, stones, gravels or minerals;
  - (c) for the improvement of grazing;
  - (d) for the maintenance of water supply and springs, rivers and tracks;
  - (e) for the protection against storms, winds, rolling stones, floods and avalanches;
  - (f) for the protection of roads, bridges, and other lines of communications.
- (3) No notification shall be made under sub-section (1) nor shall any work be commenced under sub-section (2), until after the issue of a notice to the owner of such forest or land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be issued or work commenced, as the case may be, and until his objections, if any, and any evidence he may produce in support of the same, have been heard by any officer duly appointed on that behalf by the Government.

37. Whoever contravenes the provisions of sub-section (1) of section 34 or the rules made under section 35, or of the terms of a notification issued under section 36 shall, without prejudice to any other action that may be taken against him under this Act, on conviction, be punishable with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both. *Penalty.*

38. (1) Any owner of any land or, if there be more than one owner thereof, the owners of all the shares therein may, with a view to the formation or preservation of forest thereon, apply in writing to the Government to take over the management of such land and the Government may, on such application, where it is of opinion that it is expedient in public interest to form or preserve the forest, by notification, assume the management of such land. *Government management of forest at the request of owner.*
- (2) When the management of any land is assumed under sub-section (1) save as otherwise agreed to between the Government and the applicants, the net profit, if any, arising from the management of the forest shall be paid to the owners.